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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,368	03/12/2001	Yoshihito Ishibashi	09792909-4857	9043

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EXAMINER

ALVAREZ, RAQUEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/804,368

Applicant(s)

ISHIBASHI, YOSHIHITO

Examiner

Raquel Alvarez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This office action in response to communication filed on 8/9/2004.
2. Applicant's election without traverse of Group I is acknowledged.

#### **Specification**

3. The Lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### **Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 21 is rejected under 35 U.S.C. 101 because it fails to recite computer executable instructions. The claims are directed to "a program providing medium". Giving the term its broadest reasonable interpretation, the claims are directed to a program per-se and a program instruction. Accordingly, the claim fails to recite a positive functional interrelationship between the medium and the activities recited. Please refer to MPEP 2106.

For example claim 21, can be rewritten as "a computer-readable medium having stored therein computer-executable instructions..... for performing the steps of.....".

#### **Claim Objections**

5. Claims 1, is objected to because of the following informalities: the claim do not differentiate the elements from the components. A semicolon should be used after the

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comprising.

**Claim Rejections - 35 USC § 102**

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Gruse et al. (6,389,538 hereinafter Gruse).

With respect to claims 1-2, 11-12, 21, Gruse discloses a content usage-fee management system for performing transaction processing of content which is usable by a user device (col. 11, lines 49-64; col. 13, lines 5-9, Figure 6), said content usage fee management system comprising a service provider for managing a service for the provision of the content, wherein said service provider receives a usage log from said user device, said usage log being created by said user device and including log information containing data of a content usage fee (col. 47, lines 49-55; col. 13, line 45 to col. 14, lines 1-9), and said service provider compares the content usage fee with a predetermined threshold value as to determine the use of the content that is allowed (col. 23, lines 19-38).

With respect to claims 3, 5, 13 and 15, Gruse further teaches said service provider requests a clearing center which manages an electronic money balance of said

user device to inquire about the electronic money balance usable by said user device (col. 48, lines 1-43; col. 49, lines 31-31).

With respect to claims 4 and 14, Gruse further teaches that the content is sent to a user device in the form of a secure container including the content encrypted with a content key, and said service provider sends the content key to said user device only when it is determined that the use of the content is allowed by comparing the content usage fee contained in said usage log with the predetermined threshold value (col. 9, lines 58-67; col. 10, lines 4-17; col. 12, lines 43-54; col. 15, lines 30-35; col. 16, lines 42-55; col. 17, lines 12-20).

With respect to claims 6, 16, Gruse further teaches wherein said service provider creates a receive log including the usage fee data based on said usage log received from said user device, and sends said receive log to a clearing center which manages an electronic money balance (col. 47, lines 49-67; col. 48, lines 1-43).

With respect to claims 7 and 17, Gruse further teaches that the threshold data is checked when said usage log is created, and, when the usage fee is found to exceed the threshold data, said user device adds identification data indicating that the usage fee exceeds the threshold data to said usage log (col. 47, lines 49-55; col. 13, lines 45 to col. 14, line 9; col. 21, lines 46-51; col. 23, lines 19-38).

Claim 8 is rejected under same rationale as claims 6 and 16 rejected above.

Claim 18 is rejected under sama rationale as claims 6 and 16.

With respect to claims 9-10, 19-20, that the usage log is sent from the user device to said service provider, mutual authentication processing is performed between said user device and said service provider, and said user device attaches a digital signature to said usage log, and upon receiving said usage log, said service provider verifies the integrity of the digital signature (col. 9, lines 58-67; col. 10, lines 4-17; col. 12, lines 43-54; col. 15, lines 30-35; col. 16, lines 42-55; col. 17, lines 12-20).

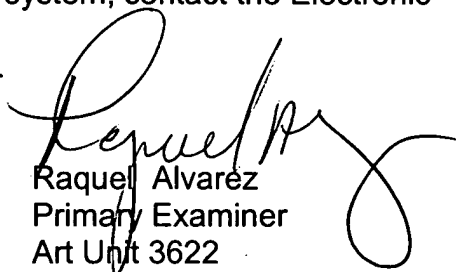
**Point of contact**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (703)305-0456. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raquel Alvarez  
Primary Examiner  
Art Unit 3622

R.A.  
11/8/04